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**DEC 15 2005**

**OFFICE OF PETITIONS**

In re Application of	:
Van Barlow, et al.	:
Application No. 10/017,746	: DECISION ON APPLICATION
Filed: December 7, 2001	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 510P004	:
	:

This decision is in response to the "REQUEST FOR REDUCTION OF PATENT TERM ADJUSTMENT", filed October 20, 2005, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance was **zero (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 30, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is two (2) days.

The Office initially determined a patent term adjustment of two (2) days based on an adjustment for PTO delay of sixty-one (61) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and sixty-four (64) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by ninety-one (91), thirty (30), and two (2) days of applicant delay pursuant to 35 U.S.C. § 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

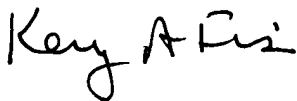
Applicants state that the total PTA should be reduced because they filed an amended Appeal Brief on July 5, 2005. Applicants originally filed an Appeal Brief on March 28, 2005. However, the Office mailed a Notice of Non-Compliant Appeal Brief on June 6, 2005. Applicants filed a proper Appeal Brief on July 5, 2005. Accordingly, applicants should have been assessed additional delay of ninety-nine (99) days pursuant to 37 C.F.R. § 1.704(c)(7).

As the amended Appeal Brief was not filed until July 5, 2005, the Office's mailing of a Notice of Allowance on September 30, 2005 was timely mailed within four months. Accordingly, no PTO delay should have been assessed for the mailing of the Notice of Allowance.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days (61 days of PTO delay, reduced by 222 (99+91+30+2) days of applicant delay).

No petition fee was required and none has been charged. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Kery Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation